

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA

CR. NO. 00-10018-02

-vs-

JUDGE LITTLE

CEDRIC DEMOND BOWMAN

RULING AND ORDER

Before the court is a Motion to Eliminate Enhancements and Reduce Sentence filed by Cedric Demond Bowman (“Bowman”) on 9 January 2006 [Doc. #125] seeking “review of his case and a sentence reduction, eliminating the enhancements in his case.” The government filed an answer on 23 January 2006 [#128].

Bowman’s motion does not specifically state its statutory basis. It appears, however, to be written as a 28 U.S.C. § 2255 motion. Courts, however, will not characterize a *pro se* defendant’s motion as a § 2255 motion if 1) it is not clearly identified as such, and 2) the motion would be the first such motion filed, thereby making subsequent § 2255 motions subject to the law’s restrictions on “second or successive” motion without first giving the defendant “an opportunity to withdraw the motion or to amend it so that it contains all the § 2255 claims he believes he has.” Castro v. United States, 540 U.S. 375, 383 (2003).

As such, the court now informs Bowman “that it intends to recharacterize the pleading” as a first § 2255 motion. Id. The court therefore notifies Bowman that “this

recharacterization means that any subsequent § 2255 motion will be subject to the restrictions on ‘second or successive’ motions,” as discussed in 28 U.S.C. §§ 2244 & 2255. Id.

In addition, the court now gives Bowman the opportunity to withdraw his motion or amend the motion to include additional § 2255 claims he wishes to bring. Id. Accordingly, Bowman is ORDERED to withdraw his motion, amend it within 30 days “so that it contains all the § 2255 claims he believes he has,” or indicate to the court that he wishes to proceed with the current motion as his first § 2255 motion. Id.

Alexandria, Louisiana

22 February 2006

A handwritten signature in black ink, appearing to read 'F. A. Little, Jr.', with a stylized, cursive script.

F. A. LITTLE, JR.
UNITED STATES DISTRICT JUDGE